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CUMULATIVE SUPPLEMENT

TO

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1972 ANNOTATED

Issued December 2020

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

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PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2019 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2019 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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SCHEDULE OF NEW SECTIONS

Added in this Supplement

There are no new sections added in this supplement.

MISSISSIPPI CODE
1972
ANNOTATED

VOLUME SIXTEEN A

TITLE 75.

REGULATION OF TRADE, COMMERCE AND INVESTMENTS

CHAPTER 3.

UNIFORM COMMERCIAL CODE — NEGOTIABLE INSTRUMENTS

PART 1.

GENERAL PROVISIONS AND DEFINITIONS.

§ 75-3-103. Definitions.

JUDICIAL DECISIONS

I. DECISIONS UNDER CURRENT LAW.

1. "Party."

Cattle feedlot business lacked a claim under the statute against a bank with regards to a bank customer's alleged check kiting scheme because the negotiable instruments chapter did not contemplate extending liability to any party who bore any loss as a result of a depository bank's negligence in regard to the handling of a negotiable instrument, and the feedlot was not an "aggrieved party" under Miss. Code Ann. § 75-1-305(b), nor was the feedlot a "party" to the negotiable instruments as defined in subsection (a)(10) of this provision. Midwest Feeders, Inc. v. Bank of Franklin, 886 F.3d 507, 2018 U.S. App. LEXIS 7670 (5th Cir. Miss. 2018).

PART 4.

LIABILITY OF PARTIES.

§ 75-3-404. Impostors; fictitious payees.

JUDICIAL DECISIONS

I. DECISIONS UNDER CURRENT LAW.

1. Cause of action limited to party to negotiable instrument.

Cattle feedlot business lacked a claim under the statute against a bank with regards to a bank customer's alleged check kiting scheme because the negotiable instruments chapter did not contemplate extending liability to any party who bore any loss as a result of a depository bank's negligence in regard to the handling of a negotiable instrument, and the feedlot was not an "aggrieved party" under Miss. Code Ann. § 75-1-305(b), nor was the feedlot a "party" to the negotiable instruments as defined in Miss. Code Ann. § 75-3-103(a)(10). Midwest Feeders, Inc. v. Bank of Franklin, 886 F.3d 507, 2018 U.S. App. LEXIS 7670 (5th Cir. Miss. 2018).

§ 75-3-420. Conversion of instrument.

JUDICIAL DECISIONS

I. DECISIONS UNDER CURRENT LAW.

1. Property interest not found.

Cattle feedlot business lacked a claim under the statute against a bank with regards to a bank customer's alleged check kiting scheme because the feedlot lacked a property interest in the checks as it only had an interest in the funds behind the checks. Midwest Feeders, Inc. v. Bank of Franklin, 886 F.3d 507, 2018 U.S. App. LEXIS 7670 (5th Cir. Miss. 2018).

CHAPTER 4.

UNIFORM COMMERCIAL CODE—BANK DEPOSITS AND COLLECTIONS

PART 1.

GENERAL PROVISIONS AND DEFINITIONS.

§ 75-4-103. Variation by agreement; measure of damages; action constituting ordinary care.

JUDICIAL DECISIONS

7. Practice and procedure.

Bank and bank employee were not entitled to summary judgment as to a conservator's claims because, inter alia, the bank could not use a deposit agreement to disclaim the bank's duties of good faith and ordinary care. Newsome v. Peoples Bancshares, 269 So. 3d 19, 2018 Miss. LEXIS 406 (Miss. 2018).

§ 75-4-111. Statute of limitations.

JUDICIAL DECISIONS

1. Default.

Trial court abused its discretion in failing to set aside the entry of default because a bank presented a reasonable, colorable defense on the merits regarding a debt-collection company's notice of overdraft charges and whether a significant portion of the company's claims were time barred by the applicable three-year statute of limitations; daily notices and monthly bank statements reflecting the overdraft charges were mailed to the company in 2006, and it filed its complaint in 2010. Franklin Collection Serv. v. Bancorpsouth Bank, 275 So. 3d 1048, 2019 Miss. LEXIS 206 (Miss. 2019).

PART 3.

COLLECTION OF ITEMS: PAYOR BANKS.

§ 75-4-303. When items subject to notice, stop-payment order, legal process, or setoff; order in which items may be charged or certified.

JUDICIAL DECISIONS

8. Practice and procedure.

Trial court abused its discretion in failing to set aside the entry of default because a bank presented a reasonable, colorable defense on the merits regarding its banking practices and whether those practices breached the deposit agreement and/or violated the implied covenant of good faith and fair dealing; the Uniform Commercial Code provides banks with the authority to determine the order in which a bank will post transactions to customer accounts Franklin Collection Serv. v. Bancorpsouth Bank, 2019 Miss. LEXIS 206 (May 23, 2019).

CHAPTER 4A.

UNIFORM COMMERCIAL CODE—FUNDS TRANSFERS

PART 1.

SUBJECT MATTER AND DEFINITIONS.

§ 75-4A-103. Payment order—Definitions.

JUDICIAL DECISIONS

1. Funds transfers.

Statute of repose did not bar a conservator's claims against a bank and bank employee because the statute did not apply to removing funds from a conservatorship account and issuing cashier's checks to beneficiaries, as these were not funds transfers. Newsome v. Peoples Bancshares, 269 So. 3d 19, 2018 Miss. LEXIS 406 (Miss. 2018).

§ 75-4A-104. Funds transfer—Definitions.

JUDICIAL DECISIONS

1. Funds transfers.

Statute of repose did not bar a conservator's claims against a bank and bank employee because the statute did not apply to removing funds from a conservatorship account and issuing cashier's checks to beneficiaries, as these were not funds transfers. Newsome v. Peoples Bancshares, 269 So. 3d 19, 2018 Miss. LEXIS 406 (Miss. 2018).

PART 5.

MISCELLANEOUS PROVISIONS.

§ 75-4A-505. Preclusion of objection to debit of customer's account.

JUDICIAL DECISIONS

1. In general.

Statute of repose did not bar a conservator's claims against a bank and bank employee because the statute did not apply to removing funds from a conservatorship account and issuing cashier's checks to beneficiaries, as these were not funds transfers. Newsome v. Peoples Bancshares, 269 So. 3d 19, 2018 Miss. LEXIS 406 (Miss. 2018).